IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24409 of 2004

Between:

P.N. Reddy, S/o Late Laxma Reddy,
retired Deputy General Manager, (Finance),

RITES Limited, R/o Flat No. 405, Part View Apartments,

Adikmet, Vidyanagar, Hyderabad.

..... PETITIONER

AND

1. The Managing Director, Rail India Technical Economic Services Ltd

(in short RITES Ltd), (The Government of India Enterprises)

No.1, Sector-29, its Bhavan, Gurgaon, State of Haryana-122 001.
2. The Chief Project Manager, RITES Ltd, 209, Swapna Lok Complex,

S.D. Road, Secunderabad - 500 003.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more in the nature of *Writ of Certiorari* by calling for records relating to Letter No. Estt.PF.PNR:3033, dated 9-12-2004 issued by the General Manager, Personnel, RITES Ltd, Gurgaon, Haryana State and quash the same as illegal, arbitrary, unjust, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India besides opposed to the rules/instructions of the company of the subject and be pleased to hold that the petitioner is entitled for payment of final settlement dues towards gratuity and encashment of leave together with interest at 18% per annum till payment .

Counsel for the Petitioner: MR.K.VENKATESWARA RAO

Counsel for the Respondents: NONE APPEARED

The Court made the following:

ORDER:

Challenging the action of the respondents for not paying the gratuity and encashment of earned leave, the present writ petition is filed.

2. The learned counsel for the writ petitioner contended that the rules governing the service conditions of the writ petitioner do not give power to the respondent to withhold the gratuity and leave encashment after retirement. Therefore, the action of the respondents in withholding the gratuity is against the statutory rules. Hence, the petitioner seeks for setting aside the letter dated 09.12.2004 withholding the gratuity and encashment of leave.

3. The respondents have been served through court and none appeared for the respondents.

4. As seen from the impugned letter, the payment of gratuity and encashment of earned leave has been withheld due to vigilance case pending against the writ petitioner, and on finalisation of the case, appropriate action would be taken. This order does not indicate under which provision the payment of gratuity and encashment of leave can be withheld. So, without adverting to the rules governing the service conditions of the writ petitioner, the impugned proceedings have been passed. Therefore, the impugned letter is liable to be set aside and accordingly set aside.

5 . Accordingly, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for payment of gratuity and encashment of earned leave as per the rules governing the service conditions of the writ petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

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(K.C. BHANU, J)

Date: 09.02.2005

Note: Issue C.C. by tomorrow

B.O.

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director, Rail India Technical Economic Services Ltd

No.1, Sector-29, RITES Bhavan,

Gurgaon, State of Haryana-122 001.

2. The Chief Project Manager, RITES Ltd, 209,

Swapna Lok Complex,

S.D. Road, Secunderabad - 500 003.

3. Two C.D. copies

*Form-NIC-OGS/WP{**AVLR**}*